

REMARKS/ARGUMENTS:

This Amendment and the following remarks are intended to fully respond to the Final Office Action mailed December 30, 2008 ("Office Action"). The Office Action rejected claims 1-3, 10, 11, 17, and 30 under 35 USC §103(a) as being unpatentable over Mayer et al., US Publication No. 2002/0019864, (hereinafter referred to as "Mayer"), in view of Melchione et al., US Publication No. 2003/0200300, (hereinafter referred to as "Melchione"), and in further view of Crudele et al., US Patent No. 6,973,647, (hereinafter referred to as "Crudele").

Additionally, the Office Action rejected claims 4-9 and 12-16 also under 35 USC §103(a), but as being unpatentable over Mayer, in view of Melchione and Crudele and in further view of Donohue et al., US Patent No. 6,199,204, (hereinafter referred to as "Donohue").

Claim Amendments

Applicant herein amends Claims 1, 6, 7, 10 and 30. Furthermore, Applicant cancels Claims 8 and 11-17. No new claims have been added. Claims 1-7, 9-10, and 30 are currently pending.

Claims Rejected Under 35 USC § 103(a) as to Mayer, in view of Melchione and Crudele

Claims 1-3, 10, 11, 17, and 30 were rejected under 35 USC §103(a) as being unpatentable over Mayer, in view of Melchione, and in further view of Crudele. Applicant respectfully disagrees and traverses this rejection. Claims 11 and 17 have been canceled herein without prejudice. To establish a prima facie case of obviousness, the references must teach or suggest each and every one of the claim elements to one of ordinary skill in the art at the time the invention was made. See MPEP §§ 2142, 2143.03; *In re Wilson*, 424 F.2d 1382, 1385 (C.C. P.A. 1970). In addition, *KSR International Company v. Teleflex, Inc.*, 127 S. Ct. 1727, 1741 (2007), requires that there "must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." (Emphasis added.) Further, "[A] patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art." *KSR Int'l Co.*, 127 S. Ct. at 1741. Specifically, Mayer, in view of Melchione and Crudele fails to teach or suggest all of the claimed elements.

Claim 1 requires, *inter alia*:

wherein the root update service node includes a first administration application programming interface (API) and first administration user interface, wherein the first administration API and first administration user interface are operable to receive from an administrator a set of rules for distributing software updates to at least some of the plurality of child update service nodes; and

wherein at least the first child update service node includes a second administration API, separate from the first administration API, and a second administration user interface, separate from the first administration user interface, wherein the second administration API and second administration user interface are operable to receive a second set of rules for distributing software updates from the first child update service node to at least one other child update service node
... (Claim 1, as amended)

The Office Action admits that Mayer fails to disclose an “administration application programming interface (API)” through which an administrator may establish “a set of rules for distributing software updates from the update service node to its child update service nodes.” (Office Action pp. 5-6.) The Office Action instead cites Melchione for this element (as previously claimed). Melchione describes a system in which a variety of vendors can sell services hosted by a single application service provider to different customers (Melchione, Abstract). The Office Action asserts, with respect to Melchione that:

update service node equates to ‘The nodes can include agent software that periodically communicates with the data center 712’ (Melchione, [0078]).

update service node to its child update service nodes equates to nodes 760A, 760B, 760C, and 760E being administered can be placed into one or more named logical groups 750A, 750B, and 750N of Melchione [0077].

an administration application programming interface (API) equates to an interface of Melchione, [0059], (i.e., an administrator is

presented with an interface by which policy can be applied to a group of devices, Melchione [0059].

a set of rules for distributing software updates equates to a policy of Melchione, [0059], (i.e., Using an interface of this type, one or more directives can be bundled into a set of directives called a 'policy.' In the example, an administrator is presented with an interface by which a policy can be applied to a group of devices (e.g., a selected subset of the devices 222). In this way, the administrator can control various administration functions (e.g., installation, configuration, and management of the administered software 212) for the devices 222. In the example, the illustrated user interface 300 is presented in a web browser via an Internet connection to a data center (e.g., as shown in Fig. 2) via an HTTP-based protocol, Melchione[0059]; activation of a graphical user interface element (e.g., element 312) can cause a request for application services to be sent. For example, application of a policy to a group of devices may result in automated installation, configuration, or management of indicated software for the devices in the group, Melchione [0060].

a set of rules for distributing software updates equates to the configuration directives of Melchione, [0078] (i.e. The nodes can include agent software that periodically communicates with the data center 712.

...

Office Action at pp. 29-30 (emphasis in original).

Applicants respectfully submit that these arguments are flawed and, moreover, are inapposite to the amended claim language. For example:

First, nodes 760A, 760B, 760C, 760D, and 760E in figure 7 of Melchione are not child update service nodes, as claimed in claim 1. Claim 1 requires that the plurality of child update service nodes are operable to distribute software updates to client computers. That in Melchione "nodes can include agent software that periodically communicates with the data center 712" is inapposite.

At best, nodes 760A, 760B, 760C, 760D, and 760E of figure 7 in Melchione are operable to receive software updates, not distribute them to client computers. Accordingly, because Melchione does not disclose any child update service nodes, Melchione cannot meet the limitation of claim 1 that the root update service node includes a first administration application programming interface (API) and first administration user interface, wherein the first administration API and first administration user interface are operable to receive from an administrator a set of rules for distributing software updates to at least some of the plurality of child update service nodes.

Second, claim 1, as amended, requires that at least the first child update service node includes a second administration API, separate from the first administration API, and a second administration user interface, separate from the first administration user interface. Even if Melchione disclosed the first administration API and first administration user interface (and it does not), it clearly does not disclose a second administration API, separate from the first administration API, and a second administration user interface, separate from the first administration user interface. At best, Melchione describes only one administration API with respect to client machine 732 of figure 7. No second administration API or second administration user interface is disclosed, let alone being included in the first child update service node, as claimed.

Further, even if nodes 760A, 760B, 760C, 760D, and 760E in figure 7 of Melchione could be considered child update service nodes (they cannot), and even if Melchione disclosed the claimed second administration API and second administration user interface in relation to nodes 760A, 760B, 760C, 760D, and 760E (it does not), such second administration API and second administration user interface would not be operable to receive a second set of rules for distributing software updates from the first child update service node to at least one other child update service node, as required by claim 1. Because nodes 760A, 760B, 760C, 760D, and 760E in figure 7 of Melchione do not act as parent nodes for any other child update service nodes, whatever installation instructions they receive are directed at installation of software updates for their own benefit – not

as an update service node for another node or machine. Mayer and Crudele do not make up for the deficiencies of Melchione. For at least these reasons, claim 1, and dependent claims 2-3 are allowable over the cited references.

Claim 30 is allowable for at least similar reasons as claim 1. For example, claim 30 requires:

providing a plurality of child update service nodes organized in a hierarchy under the root update service node, *wherein each of the plurality of update service nodes is operable to distribute software updates to client computers;*

...

wherein each of the plurality of child update service nodes includes an administration application programming interface (API) and administration user interface through which an administrator establishes a set of rules for distributing software updates to its child update service nodes. (Claim 30, as amended, emphasis added.)

Accordingly, Applicant respectfully requests that the Examiner withdraw this rejection and find the claims to be a condition for allowance.

Claims Rejected Under 35 USC § 103(a) as to Mayer, in view of Melchione, Crudele and Donohue

Claims 4-9 and 12-16 were rejected under 35 USC §103(a), but as being unpatentable over Mayer, in view of Melchione and Crudele and in further view of Donohue. Claims 8 and 12-16 have been canceled. Claims 4-7 and 9 depend from claim 1 and are allowable for at least the same reasons as set forth above with respect to claim 1. Donohue does not make up for the deficiencies of Mayer, Crudele, and Melchione. Applicant respectfully requests that the Examiner withdraw this rejection and find the claims to be a condition for allowance.

CONCLUSION:

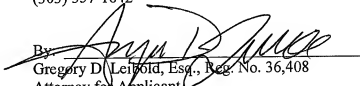
This Amendment fully responds to the Final Office Action mailed on December 30, 2008. Still, that Final Office Action may contain arguments and rejections that are not directly addressed by this Amendment due to the fact that they are rendered moot in light of the preceding arguments in favor of patentability. Hence, failure of this Amendment to directly address an argument raised in the Final Office Action should not be taken as an indication that the Applicant believes the argument has merit. Furthermore, the claims of the present application may include other elements, not discussed in this Amendment, which are not shown, taught, or otherwise suggested by the art of record. Accordingly, the preceding arguments in favor of patentability are advanced without prejudice to other bases of patentability.

Please charge any fees not paid with this response, or credit any overpayment to, deposit account 13-2725.

Respectfully submitted,

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